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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,584	06/21/2006	Shinji Shimada	128063	5550
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EXAMINER				
HICKS, ROBERT J				
ART UNIT		PAPER NUMBER		
3781				
NOTIFICATION DATE		DELIVERY MODE		
02/23/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

OfficeAction25944@oliff.com
jarnstrong@oliff.com

Office Action Summary

Application No.

10/580,584

Applicant(s)

SHIMADA, SHINJI

Examiner

ROBERT J. HICKS

Art Unit

3781

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,13-17 and 19-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,13-17 and 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

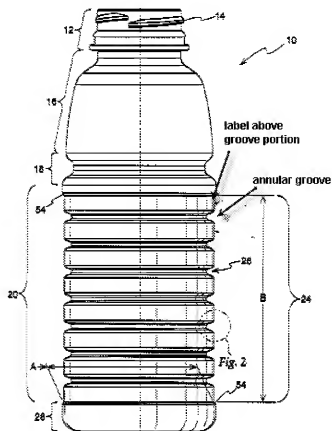
3. **Claims 1, 4, 14, 17, 19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krishnakumar et al. (5,704,503) [Krishnakumar '503] in view of Itaba et al. (5,227,233) [Itaba], and further in view of Rashid (2001/0006165).**

Regarding Amended Claim 1 and Claim 21, the patent to Krishnakumar '503 – a hot fillable bottle with label – discloses a synthetic resin container comprising a container body of a first material [130, Col. 3 Lines 10-12], said container body having a main body portion formed with a plurality of sectioned recesses, said container further comprising: a label [150] arranged at said main body portion of the container body and surrounding the main body portion, wherein the label is immovably arranged on the main body [138, 142, and Col. 3 Lines 20-27]; closed air layers are provided between

addition, the printing on the label can be used to represent a recycling bottle and the label and bottle can both be recycled together. Krishnakumar '503 and Itaba are both from the art of plastic bottles with labels placed on the container sidewall, and it would have been obvious at the time of the invention to one of ordinary skill, with market forces driving one of ordinary skill to change the prior art, to modify the label in the Krishnakumar '503 container to be the same material as the container, as suggested by Itaba, to reduce manufacturing material costs, and so that the label can bond to the container through the manufacturing process [Itaba, Col. 3 Lines 37-46].

The Krishnakumar '503 and Itaba combination does not expressly disclose an annular groove above the sectioned recesses, or that the label extends over the annular groove. However, the publication to Rashid – a plastic container with ribs – discloses an annular groove [Rashid, 26, top rib, Fig. 1] above sectioned recesses [Rashid, Fig. 1] in which the label extends above the annular groove portion [Rashid, Fig. 1, Paragraph 22 Lines 1-12]. The examiner sees the top rib as the annular groove, and the lower rib portions as sectioned recesses and the label can be placed such that the label extends above the annular groove portion when placed on the container. Krishnakumar '503, Itaba, and Rashid are all from the art of containers with labels placed along the sidewall. It would have been obvious at the time of the invention to one of ordinary skill, using the teaching, suggestion, and motivation within the prior art, to modify the sidewall of the Krishnakumar '503 and Itaba combination bottle with an annular groove portion in which the label extends over the annular groove, as

suggested by Rashid, as the groove portion does add strength to the sidewall of the container [Rashid, Paragraph 23 Lines 1-4.



Regarding Claim 4, Krishnakumar '503 in view of Itaba in view of Rashid discloses all the limitations substantially as claimed, as applied to amended claim 1 above; further, the combination discloses said label is a tack label [Itaba, Col. 6 Lines 32-34]. The examiner notes the label can be tacked onto the mold and the container, when the container is being molded. It would have been obvious at the time of the invention to one of ordinary skill, with market forces driving one of ordinary skill to change the prior art, to modify the label in the Krishnakumar '503 container to be a tack

label, as suggested by Itaba, as the label "can be stuck on the surface of the bottle in the mold concurrently with blow molding of the bottle." [Itaba, Col. 6 Lines 32-34]

Regarding Claim 14, Krishnakumar '503 in view of Itaba in view of Rashid discloses all the limitations substantially as claimed, as applied to amended claim 1 above; further, the combination discloses the container has a longitudinal axis [Krishnakumar '503, 102] and the label is adhered at upper and lower end regions of the label along the longitudinal axis [Krishnakumar '503, 138 and 142].

Regarding Claim 17, Krishnakumar '503 in view of Itaba in view of Rashid discloses all the limitations substantially as claimed, as applied to amended claim 1 above; further, the combination discloses the first material is PET [Krishnakumar '503, Col. 3 Lines 10-12].

Regarding Claim 19, Krishnakumar '503 in view of Itaba in view of Rashid discloses all the limitations substantially as claimed, as applied to amended claim 1 above; further, the combination discloses the label is immovably arranged on the main body portion through an adhesive layer [Krishnakumar '503, Col. 3 Lines 20-27].

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krishnakumar '503 in view of Itaba in view of Rashid as applied to amended claim 1 above and further in view of Hoffman (4,976,798).

Krishnakumar '503 in view of Itaba in view of Rashid discloses all the limitations substantially as claimed, as applied to amended claim 1 above. The Krishnakumar '503, Itaba, and Rashid combination does not expressly disclose that the label is a heat-shrinkable label; however, the patent to Hoffman - a method of applying a plastic wrap

to a container - discloses a heat-shrinkable label with a heat-sensitive adhesive agent [Hoffman, 40] that is applied to a container [Hoffman, 42, Col. 4 Lines 15-18].

Krishnakumar '503, Itaba, Rashid, and Hoffman are all from the art of bottles with labels applied on the sidewall, and it would have been obvious at the time of the invention to one of ordinary skill, with market forces driving one of ordinary skill to change the prior art, to modify the label in the Krishnakumar '503, Itaba, and Rashid combination container assembly to be a heat-shrinkable label with a heat-sensitive adhesive, as suggested by Hoffman, in order to apply a label directly to the container [Hoffman, Col. 1 Lines 66-67].

5. Claims 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krishnakumar '503 in view of Itaba in view of Rashid as applied to amended claim 1 above, and further in view of Krishnakumar et al. (5,178,289) [Krishnakumar '289].

Regarding Claim 13, Krishnakumar '503 in view of Itaba in view of Rashid discloses all the limitations substantially as claimed, as applied to amended claim 1 above. The Krishnakumar '503, Itaba, and Rashid combination does not expressly disclose that the closed air layers form an air cushion structure; however, the patent to Krishnakumar '289 - a hot filled container with label - discloses the closed air layers between the label and the recess form a cushion structure that absorbs impacts from outside for the container [Krishnakumar '289, Abstract Lines 15-19]. The examiner notes, the air pocket help prevent the container from buckling. Krishnakumar '503, Itaba, Rashid, and Krishnakumar '289 are all from the art of container bottles with labels

attached on the sidewalls, and it would have been obvious at the time of the invention to one of ordinary skill, using the teaching, suggestion, and motivation within the prior art, to modify the air layers between the label and the recesses in the Krishnakumar '503, Itaba, and Rashid combination container to absorb the impacts on the container, as suggested by Krishnakumar '289, which "provides increased resistance to barreling by modifying select portions of the panel section to increase hoop (diameter) stiffness and reduce the hoop stretchability of the container." [Krishnakumar '289, Col. 2 Lines 3-6]

Regarding Claim 15, Krishnakumar '503 in view of Itaba in view of Rashid discloses all the limitations substantially as claimed, as applied to amended claim 1 above. Although the combination discloses the container has a longitudinal axis [Krishnakumar '503, 102], the Krishnakumar '503, Itaba, and Rashid combination does not expressly disclose annular groove portions extending about the longitudinal axis. However, the patent to Krishnakumar '289 discloses annular groove portions [Krishnakumar '289, Fig. 11] extending about the longitudinal axis on opposite sides of the plurality of sectioned recesses [Krishnakumar '289, Fig. 11], the annular groove portions being covered by the label [Krishnakumar '289, Figs. 10 and 11]. Krishnakumar '503, Itaba, Rashid, and Krishnakumar '289 are all from the art of container bottles with labels attached on the sidewalls, and it would have been obvious at the time of the invention to one of ordinary skill, using the teaching, suggestion, and motivation within the prior art, to modify the sidewalls of the Krishnakumar '503, Itaba, and Rashid combination container to have annular groove portions surrounded by the label, as suggested by Krishnakumar '289, which "provides increased resistance to

barreling by modifying select portions of the panel section to increase hoop (diameter) stiffness and reduce the hoop stretchability of the container." [Krishnakumar '289, Col. 2 Lines 3-6]

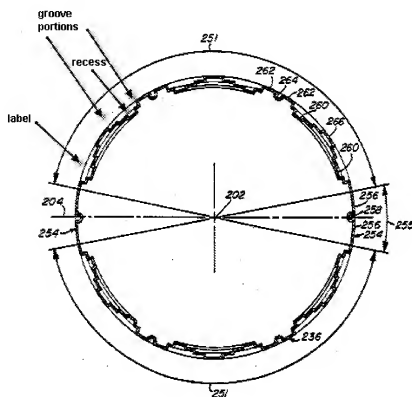


Fig. 11

6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krishnakumar '503 in view of Itaba in view of Rashid in view of Krishnakumar '289 as applied to claim 15 above, and further in view of Hoffman.

Krishnakumar '503 in view of Itaba in view of Rashid in view of Krishnakumar '289 discloses all the limitations substantially as claimed, as applied to claim 15 above.

The Krishnakumar '503, Itaba, Rashid, and Krishnakumar '289 combination does not expressly disclose that the label is a heat-shrinkable label; however, the patent to Hoffman - a method of applying a plastic wrap to a container - discloses a heat-shrinkable label with a heat-sensitive adhesive agent [Hoffman, 40] that is applied to a container [Hoffman, 42, Col. 4 Lines 15-18]. The examiner notes the label is attached to the container. Krishnakumar '503, Itaba, Rashid, and Hoffman are all from the art of bottles with labels applied on the sidewall, and it would have been obvious at the time of the invention to one of ordinary skill, with market forces driving one of ordinary skill to change the prior art, to modify the label in the Krishnakumar '503, Itaba, Rashid, and Krishnakumar '289 combination container assembly to be a heat-shrinkable label with a heat-sensitive adhesive, as suggested by Hoffman, in order to apply a label directly to the container [Hoffman, Col. 1 Lines 66-67].

7. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krishnakumar '503 in view of Itaba in view of Rashid as applied to amended claim 1 above, and further in view of Nojima et al. (2001/0038204) [Nojima].

Krishnakumar '503 in view of Itaba in view of Rashid discloses all the limitations substantially as claimed, as applied to amended claim 1 above. The Krishnakumar '503, Itaba, and Rashid combination does not expressly disclose that the label is a non-adhesive label; however, the publication to Nojima – a tubular label – discloses a label that is a non-adhesive label [Nojima, 1, Paragraph 28 Lines 5-10]. Krishnakumar '503, Itaba, Rashid, and Nojima are all from the art of labels placed on bottle sidewalls, and it would have been obvious at the time of the invention to one of ordinary skill, using the

teaching, suggestion, and motivation within the prior art, to modify the label on the Krishnakumar '503, Itaba, and Rashid combination container to be a non-adhesive label, as suggested by Nojima, in order to easily cut off the label from the bottle [Nojima, Paragraph 28 Lines 5-10].

Response to Arguments

8. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection. In response to applicant's argument that the Krishnakumar '503 and Itaba references fail to show certain features of applicant's invention regarding amended claim 1 {Remarks, Page 4 Line 20 to Page 5 Line 2}, see Paragraph 3 of this office action to see how Krishnakumar '503 in view of Itaba in view of Rashid meets the claim limitations set forth regarding amended claim 1.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: see PTO-892 Notice of References Cited.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT J. HICKS whose telephone number is (571)270-1893. The examiner can normally be reached on Monday-Friday, 8:30 AM - 5:00 PM, EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571) 272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert J Hicks/
Examiner, Art Unit 3781

/Anthony Stashick/
Supervisory Patent Examiner, Art
Unit 3781